

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF THE COMPLAINT	:	Civil Action No.
OF GULF MATERIALS, LLC	:	
	:	In Admiralty
For Exoneration or Limitation of	:	
Liability	:	
	:	

COMPLAINT OF GULF MATERIALS, LLC
FOR EXONERATION OR LIMITATION OF LIABILITY

Plaintiff Gulf Materials, LLC ("Gulf"), by its attorneys, Holly M. Whalen, Esquire and Weinheimer Haber & Coco, P.C., brings this Complaint for Exoneration or Limitation of Liability and avers:

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1333, in that this is a civil suit arising under the Court's admiralty and maritime jurisdiction, 46 U.S.C. § 30501 et seq., known as the Vessel Owners Limitation of Liability Act, and Rule F of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure. This is an admiralty or maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.

2. Venue is proper in this District pursuant to Rule F(9) because Gulf, is the alleged owner/operator of a vessel involved in a barge breakaway incident of May 24, 2018, at approximately mile 10.2 of the Monongahela River. The vessel has not been attached or arrested.

3. Gulf is a Pennsylvania limited liability company with a principal place of business located at 1 Eighth Street, Braddock, Pennsylvania 15104.

4. On May 24, 2018, Gulf was first provided written notice of a claim by Campbell Transportation Company, Inc. arising from the May 24, 2018 barge breakaway incident in which barges owned by Campbell Transportation Company, Inc. were involved. Attached and marked Exhibit A is a copy of Campbell Transportation Company, Inc.'s May 24, 2018 correspondence.

5. On or about June 11, 2018, Gulf was notified of a claim against it by Murray American River Towing, Inc. seeking to recover damages relating to barges owned by Murray which were involved in the May 24, 2018 barge breakaway incident.

6. On November 16, 2018, Gulf, through counsel, was advised that a Complaint for Declaratory Relief or Exoneration From or Limitation of Liability had been filed by Imperial River Transport, LLC ("Imperial") as Owner of the Towboat M/V Buck Johnson at C.A. No. 18-1522 in the United States District Court for the Western District of Pennsylvania.

7. While advised of the filing by Imperial, to date, Gulf has not been formally served with any lawsuit asserting any claim against it arising out of the May 24, 2018 barge breakaway incident.

8. Pursuant to Rule F(1) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil

Procedure, this action has been timely filed within six (6) months of receipt of a claim in writing.

9. At the time of the May 24, 2018 barge breakaway incident, Gulf was the owner of the M/V Principio.

10. On May 24, 2018, the M/V Principio was Gulf's fleeing vessel at the fleeing area from which the aforementioned barges broke loose on May 24, 2018.

11. Gulf denies liability for or from the May 24, 2018 barge breakaway incident, in any manner or sum whatsoever.

12. The aforesaid incident was occasioned and occurred without the privity or knowledge of Plaintiff Gulf.

13. Gulf avers that any alleged losses and damages claimed or which may be claimed by Campbell Transportation Company, Inc., Murray American River Towing, Inc., or other individuals or entities or by any agents, representatives or insurance carriers thereof, or by others, as a result of the May 24, 2018 barge breakaway incident, were not caused or contributed to by any fault, neglect or want of care by Gulf.

14. The approximate value of Gulf's interest in the M/V Principio immediately after the May 24, 2018 barge breakaway incident did not exceed \$225,000.00 (Two Hundred Twenty-Five Thousand and No Cents Dollars), as set forth in the Verification of Value attached hereto and incorporated herein as Exhibit B.

15. The M/V Principio had no pending freight at the time of the May 24, 2018 barge breakaway incident as set forth in the Verification of Pending Freight attached hereto and incorporated herein as Exhibit C.

16. Other than stated herein, there are no existing demands, unsatisfied liens or claims of liens against the M/V Principio in contract or in tort or otherwise, arising from the barge breakaway incident described above on May 24, 2018.

17. The M/V Principio has not been attached or arrested to answer in regard to the barge breakaway incident of May 24, 2018.

18. Upon information and belief, Gulf avers that any claims that may be asserted against it, even though not meritorious, may exceed the value of the M/V Principio and its freight then pending immediately after the May 24, 2018 barge breakaway incident.

19. Gulf claims exoneration from any and all losses, damages and injuries to any person or entity occasioned or incurred by or arising out of the aforesaid May 24, 2018 barge breakaway incident and Gulf avers that it has valid defenses thereto on the facts and on the law.

20. Alternatively, to the extent Gulf is liable, which is denied, Gulf claims the benefit of the limitation of liability provisions contained in 46 U.S.C. § 30501 et seq., and in particular, § 30505, and also claims that its liability, if any, be limited to the value of the M/V Principio and its freight pending immediately after the May 24, 2018 barge breakaway incident.

21. Gulf hereby offers and files an Ad Interim Stipulation for Value in the sum of \$225,000.00 (Two Hundred Twenty-Five Thousand and No Cents Dollars), which is attached hereto and incorporated herein as Exhibit D plus interest at the rate of 6% per annum, said sum being equal to the value of the M/V Principio and its freight then pending immediately after the May 24, 2018 barge breakaway incident and a Letter of Undertaking, which is attached hereto and incorporated herein as Exhibit E. In addition, Gulf is prepared to increase the amount of said undertaking if this Court orders that a higher Ad Interim Stipulation for Value be filed.

22. All and singular, the foregoing premises are true and within the admiralty and maritime jurisdiction of the United States and this Honorable Court.

WHEREFORE, Gulf Materials, LLC hereby requests the following relief:

- a. That this Court find that Gulf Materials, LLC is not liable for any damages, demands or claims whatsoever arising out of or connected with the barge breakaway incident of May 24, 2018, and is therefore exonerated from liability;
- b. That if any liability exists, which is denied, that such liability be limited to the value of the M/V Principio and its freight then pending immediately after the May 24, 2018 barge breakaway incident, and that the amount of value secured as aforesaid be divided pro rata among all claimants as may duly prove their claims, saving to all

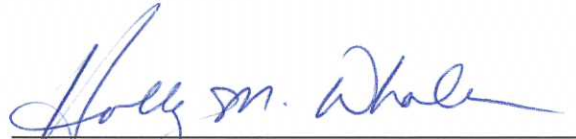
parties any priorities to which they may be legally entitled, and that a decree be entered discharging Gulf Materials, LLC from all other or further liability arising out of the May 24, 2018 barge breakaway incident;

- c. That an injunction be issued enjoining the commencement or further prosecution of any action against Gulf Materials, LLC with respect to or arising out of the May 24, 2018 barge breakaway incident;
- d. That this Court cause a notice to be issued to all persons, firms and corporations having or alleging to have claims against Gulf Materials, LLC for any and all losses, damages, or injuries occasioned or arising out of the aforementioned May 24, 2018 barge breakaway incident, citing them to file their respective claims with the Clerk of this Court or be forever barred, and to serve copies thereof on the undersigned attorneys for Gulf Materials, LLC, and also to appear and answer the allegations of this Complaint on or before a date to be named in the notice; and
- e. That Gulf Materials, LLC be awarded such other and further relief as may be just and proper and as this Court may deem appropriate.

Respectfully submitted,

WEINHEIMER, HABER & COCO, P.C.

BY:



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Counsel for Gulf Materials, LLC

Corporate Verification

I, CLIFFORD C WISE, hereby certify that I am authorized to make this verification on behalf of Gulf Materials, LLC, named in the foregoing lawsuit; that the said Complaint for Exoneration or Limitation of Liability was prepared with assistance and advice of counsel and in specific reliance upon representations and documentation provided to me and other documents and information made available to me and subject to inadvertent or undiscovered errors, limited by the records and information provided to me, presently in existence, recollected and thus far discovered; and that subject to the limitations set forth herein, the said Complaint for Exoneration or Limitation of Liability, is true and correct to the best of my knowledge, information and belief.

Dated:

November 26th, 2018

Gulf Materials, LLC

By: Clifford C Wise

Title: PRESIDENT